

THE STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 1993-94

CR-92-1473

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Taiwon Burton

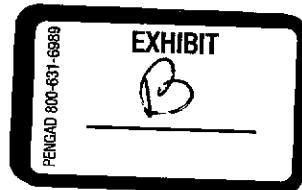
v.

State

Appeal from Montgomery Circuit Court
(CC-91-952)

MONTIEL, JUDGE

The appellant, Taiwon Burton, appeals from the denial of his petition for a writ of habeas corpus. The appellant raised issues in his habeas corpus petition that are cognizable under Rule 32, Ala. R. Crim. P. The trial court dismissed the appellant's



petition without allowing the appellant the opportunity to amend his petition to conform to Rule 32.

"When a post-conviction petition seeking relief from conviction or sentence is filed with the circuit court that is not in the proper form as proscribed by Rule 32, notwithstanding the style of the petition, the court should return the petition to the petitioner to allow him to file the proper form."

Drayton v. State, 600 So.2d 1088, 1091 (Ala. Crim. App. 1992) (emphasis original); Strother v. State, 612 So.2d 1359 (Ala. Crim. App. 1992); McShan v. State, 608 So.2d 449 (Ala. Crim. App. 1992); Smith v. State, 609 So.2d 449 (Ala. Crim. App. 1992).

Therefore, we reverse the decision of the circuit court denying the appellant's petition and remand this cause to the circuit court with directions that the petition be returned to the appellant so that he may be given the opportunity to amend his petition to comply with Rule 32. Rule 32.6, Ala. R. Crim. P.

REVERSED AND REMANDED.

All the Judges concur.